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BOOK REVIEWS.

INTRODUCTION TO THE SCIENCE OF LAW. By Karl Gareis, Professor of Law at Munich, translated from the third German edition by Albert Kocourek, Lecturer on Jurisprudence in Northwestern University, with an Introduction by Roscoe Pound, Story Professor of Law at Harvard University. Boston Book Company. 1911: XXIX, 338 and index.

Had this translation appeared in 1887 when the work was first published in Germany it would have been received here with general indifference, if noticed at all. The great Bar of the United States, more numerous than that of any country in the world, was still absorbed in disposing of the great mass of purely commercial litigation which followed the Civil War and in meeting the immediate and practical demands of the newer states where the wave of industrial activity and increasing population left no disposition or opportunity for the scholarly side of the profession. A few might have paused to marvel at the mental state of one who had devoted so much time to giving English form to the book of a German legal writer, but with a few rare exceptions no man would have turned the pages.

For a period of more than ten years, however, a notable change has been taking place, revealed at first at meetings of the American Bar Association, and now finally manifested in a wide-spread spirit of research and doctrinal discussion to be met with not only in every association, school, and journal pertaining to the law, but even in the reported arguments of counsel and court decisions. Law magazines never had so many readers as they have today and books relating to historical and philosophical jurisprudence are being welcomed and read as never before. The Bar is establishing a state of equilibrium amid routine daily demands, civic duties and the need of a broader equipment. The American lawyer has reached the conviction that the great and novel problems which confront him in this formative period of jurisprudence cannot be solved by the battledoor and shuttlecock system of case law but must be evolved from a more definite base by analysis, synthesis and reasoned classification.

England and America have thus far shown so little interest that in seeking the philosophy of the law one is practically confined to Austin: "Lectures on Jurisprudence, or the Philosophy of Positive Law," Salmond: "Jurisprudence," and Terry: "Leading Principles of Anglo-American Law." The new need, therefore, cannot be met among our own writers. On the other hand the material calls and high pressure labors of the bar for the past quarter century have left no opportunity and until of late but little inclination to become familiar with other languages. The work of the translator has accordingly become highly important. He, however, is largely circumscribed in his choice of fields, for in no country has the development of jurisprudence better opportunity for comparative law study or the conditions required more scientific appreciation of legislation and the philosophy of law than in Germany.

The translation of this leading work of Dr. Gareis has an advanced favor because it comes from a German lawyer and one whose learning and teachings have received the highest approbation in his own country.

To the American lawyer who has heretofore declined to explore any regions of jurisprudence that cannot be classed as historical or purely analytical there is a refreshing surprise calculated to remind him that there are new horizons when he turns to the very first section of the Introduction of this book and notes the objects:

1. "To furnish to beginners a fundamental introduction to the science of law."

2. "To afford to those engaged in particular departments of legal science a survey of these separate departments, based on fundamental notions."

3. "To furnish the scientific generalization and basis of the various departments of the law, and the separate studies in legal science, in such manner that these detailed parts may be seen to be the divisions of an organized unity, arising as an imperative of reason, from the attributes of human nature itself."

4. "Finally, the framework of comparative law, which in its turn serves in part for the illustration of the study of positive law and in part provides the basis for Philosophy of Law."

In the elaboration of these objects the writer has manifested a power of presentation through logical classification and subject grouping that holds and instructs the reader by its very art and lucidity. The historical evidence of legislative progression from fundamental juridical truths, the solidarity of first principles and the philosophical justness and fitness of the evolved doctrines are made so clear that all controversial impulse is allayed.

The classification is shown by the following heads: Law and its Sources; Systematic Classification of the Law; Civil or Private Law; Personality; Material Things; Obligations; Family; Inheritance; Public Law; The State; State Activity; Interest of State in Law, and Sovereignty of Justice; International Law; Methodology of Legal Science.

Under the last named head is treated "Principal studies, Subordinate studies and Auxiliary studies" and "Methods of Study and Academic Education" as a guide to instruction which the law faculties of our Universities might well very gravely consider.

The translation is generally smooth although in places unusual words have been chosen where more common ones would have avoided an appearance of pedantry. In the choice of technical legal terms the translator has wisely followed Dr. Schuster in "The Principles of German Civil Law" thereby helping to build up uniformity among English translators of German legal works.

The Introduction by Dr. Roscoe Pound cannot be omitted by the reader without substantial loss. His deep and lucid mind intensifies the living flames of interest which this work ought to have for every legal student and every American lawyer imbued with the true supervocational spirit of scholarship and professional pride.

W. W. S.

THE COMMERCIAL CODE OF JAPAN. Translated into English by Yang Yin Hang, a native of China. University of Pennsylvania Law School Series, No. I. Boston: The Boston Book Co. 1911., pp. XIX, 319.

This book is an interesting production for several reasons: first, in view of the fact that the United States has no national system of commercial law. Under the pernicious constitutional doctrine which has left some of the most important powers of sovereignty in the several States, the American commercial laws are still those of the sovereign members of an allied confederacy, as in 1789, and not the uniform and universal system which is required by the great nation which our country has become.

This work is also interesting as showing the newly aroused spirit of inquiry in the minds of the Chinese. The learned Chinese translator has earnestly studied law, law as taught in Tokyo, law as taught in the University of Pennsylvania, as well as in his own country, and his production of this book, not merely his ability, but his energy and willingness show him to be truly *servius ad legem*; and until very recently there was none such among the natives of China.